## House . . . . . . . . . . . . . No. 4421

Message from his Excellency the Governor recommending legislation relative to an act providing for the financial stability of the city of Lawrence.

## The Commonwealth of Massachusetts



EXECUTIVE DEPARTMENT
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DEVAL L. PATRICK GOVERNOR TIMOTHY P. MURRAY

December 31, 2009

To the Honorable Senate and House of Representatives:

Pursuant to Article II, Section 8, Paragraph 1, Clause (2) of the Amendments to the Constitution, as amended by Article LXXXIX, I am filing for your consideration the attached legislation, entitled "An Act providing for the financial stability of the city of Lawrence."

The City of Lawrence is facing a fiscal year 2010 operating budget deficit of approximately \$9.5 million and a capital project deficit of \$8 million. The City is also facing a projected budget deficit in fiscal year 2011. The City will be unable to resolve these budget deficits without the authority to borrow. Without state action, the City of Lawrence will be unable to continue to fund critical city operations as early as this spring.

This legislation provides a comprehensive approach by requiring the City to fulfill conditions to get back on a path to responsible budgeting and to avoid the need for the state to implement a control board in Lawrence. This legislation:

- Allows the City to borrow into deficit to balance its fiscal year 2010 and 2011 budgets, thus allowing it to generate a steady cash flow, and to meet payroll and other commitments.
- Increases state oversight of city finances by providing for a state designated fiscal overseer working cooperatively with the new mayor and city council. The overseer will report directly to the Secretary of Administration and Finance.
- Requires the overseer to assess the ability of City government to manage the City's fiscal challenges and develop a three year financial plan.

- Requires the City to act to move to GIC or a regional health purchasing group if it will save the city money.
- Requires the City to consolidate municipal and school business functions.
- Provides that, if the City is not able to balance its fiscal year 2011 budget before January 31, 2011, the overseer shall report this, as well as the underlying reasons, to the Secretary of Administration and Finance. At any time after January 31, 2011, if the state overseer concludes that the City is unable to achieve a balanced budget and fiscal stability, the overseer shall report this in writing to the Secretary, and the Secretary may appoint a finance control board with extensive powers.

It is essential to provide a combination of support and oversight for the City to get back on a path to responsible budgeting. I therefore request your prompt enactment of this legislation.

Respectfully submitted,

DEVAL L. PATRICK,

Governor.

### The Commonwealth of Alassachusetts

In the Year Two Thousand and Nine

# An Act PROVIDING FOR THE FINANCIAL STABILITY OF THE CITY OF LAWRENCE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

#### 1 The general court finds that:

- 2 (1) The city of Lawrence has a projected structural deficit for fiscal year 2010.
- 3 (2) Without significant changes the city is likely to project a structural deficit in fiscal year 2011.
- 4 (3) As a result of such structural deficits, the city is unable to enact a balanced budget and is in
- 5 fiscal crisis.
- 6 (4) The fiscal crisis poses an imminent danger to the safety of citizens of the city and their
- 7 property.
- 8 (5) Without an approved balanced budget, the city will be unable to collect property taxes during
- 9 part or all of fiscal year 2010.
- 10 (6) The city may be unable to obtain reasonable access to credit markets.
- 11 (7) The city has received fiscal year 2010 local aid from the commonwealth in excess of
- \$154,000,000, which is expected to represent over two-thirds of its operating budget, a
- proportion in keeping with that of recent years.

- 14 (8) Special acts approved in 1990 and 1992 have not been successful in achieving fiscal stability
- 15 for the city.
- 16 (9) In order to assure a comprehensive long-term solution to the city's financial problems, it is
- 17 necessary to enact extraordinary remedies, including a fiscal overseer and, if necessary, a
- finance control board, with the powers necessary to achieve the intent of this act.
- 19 (10) The governor has recommended to the general court pursuant to section 8 of Article
- 20 LXXXIX of the Amendments to the Constitution that this legislation be enacted to resolve the
- 21 financial emergency in the city and to restore financial stability to the city.
- 22 SECTION 2. As used in this act, the following words shall, unless the context requires
- 23 otherwise, have the following meanings:
- "City council", the city council for the city of Lawrence established under its charter.
- 25 "Charter", the charter of the city of Lawrence as provided in chapter 425 of the acts of 1983, as
- amended.
- "Commissioner", the commissioner of revenue.
- 28 "City", the city of Lawrence.
- 29 "Director", the director of accounts in the department of revenue.
- 30 "Board", a finance control board established under sections 7 and 8 of this act.
- 31 "School committee", the school committee of the city of Lawrence established under its charter.
- 32 "Secretary", the secretary of administration and finance.

- 33 SECTION 3. (a) Notwithstanding any general or special law, city charter provision or local
- ordinance to the contrary, the city, with the approval of the commissioner, may borrow, at 1
- 35 time or from time to time, sums approved by the city council and then by the commissioner,
- but in no event in an amount in the aggregate more than \$35,000,000, to maintain and operate
- 37 the city while it adjusts the level of its expenses and revenues in the fiscal years beginning
- July 1, 2009 and July 1, 2010. In the fiscal year beginning July 1, 2010 the city may borrow
- 39 no more than one-half of the amount of its deficit in the fiscal year beginning July 1, 2009.
- 40 The director of accounts shall certify the amount of the city's deficit for the fiscal year
- 41 beginning July 1, 2009.
- 42 (b) The commissioner may limit this borrowing to an amount or amounts less than the amount or
- amounts approved by the council. Bonds or notes issued under this act for operating purposes
- may be issued for a term of not more than 20 years and shall be backed by the full faith of the
- city. The bonds and notes shall be eligible to be issued as qualified bonds or notes under chapter
- 46 44A of the General Laws. Indebtedness incurred under this act shall not be included in
- determining the statutory limit of indebtedness of the city under section 10 of chapter 44 of the
- 48 General Laws but, except as provided in this act, shall otherwise be subject to said chapter
- 49 44. Amounts raised to pay indebtedness incurred under authority of this section shall be subject
- to section 21C of chapter 59 of the General Laws.
- 51 (c) The maturities of each issue of bonds or notes authorized under this act, including any
- refunding bonds, may, if approved by the city officers authorized to issue and approve bonds
- or notes, and by the commissioner, be arranged so that for each issue the amounts payable in
- 54 the several years for principal and interest combined are as nearly equal as is practicable in the

- opinion of the officers authorized to issue and approve the bonds or notes, or in the alternative,
- in accordance with a schedule providing for a more rapid amortization of principal.
- 57 (d) In any year during which a loan issued under this section remains outstanding, the city
- 58 shall not issue any other bond, note or other form of indebtedness without written notification
- 59 to, and the approval of, the director.
- 60 (e) In the fiscal year beginning July 1, 2009, notwithstanding section 57C of chapter 59 of the
- General Laws and chapter 183 of the acts of 2009, an actual tax bill issued upon the
- 62 establishment of the tax rate for the fiscal year, after credit is given for a preliminary tax
- payment previously made, shall be due and payable in 2 installments. The first installment
- shall be due and payable on February 1, 2010, or 30 days after the actual real estate tax bills
- are mailed, whichever is later, if the bills are mailed no later than March 15, 2010, and the
- second installment shall be due and payable on May 1, 2010, after which dates, if unpaid, they
- shall become delinquent.
- 68 SECTION 4. All proceeds of any loan issued under section 3 shall be deposited in a separate
- 69 fund which shall be set up on the books of the city and be maintained separate and apart from
- all other funds and accounts of the city. This fund shall be called the City of Lawrence
- 71 Financial Stability Fund, in this act called the fund. The city council, with the approval of the
- 72 commissioner, may authorize disbursements from the fund for purposes that the mayor
- 73 considers appropriate to maintain and continue city operations. Funds borrowed for city
- operating purposes may be applied, with the approval of the director, as general revenue for
- purposes of section 23 of chapter 59 of the General Laws. The director may establish rules

- and procedures that he considers appropriate relating to disbursements from the fund and the
- 77 reporting and accounting for these disbursements.
- SECTION 5. (a) There shall be in the city a fiscal overseer, appointed by the secretary to assess
- the ability of the city government to manage the city's fiscal challenges, and develop within 120
- days of appointment a 3-year operating and capital financial plan to achieve fiscal stability. The
- 81 overseer shall:
- 82 (1) recommend to the mayor, city council and school committee sound fiscal policies for
- 83 implementation;
- 84 (2) supervise all financial services and activities including the school department;
- 85 (3) advise the director of budget and finance, assessors, comptroller, treasurer-collector,
- purchasing agent and employees performing similar duties but with different titles;
- 87 (4) provide assistance in all matters related to municipal financial affairs including the school
- 88 department;
- 89 (5) assist in development and preparation of all department budgets and spending plans;
- 90 (6) review all proposed contracts and obligations with a term in excess of 1 year; and
- 91 (7) monitor the expenditures of all funds;
- 92 (8) report to the secretary.
- 93 (b) All department budgets and request for budget transfers shall be submitted to the fiscal
- overseer for review and recommendation before submission to the mayor, city council or
- 95 school committee.

(c) The city shall annually appropriate amounts sufficient for the proper administration of the fiscal overseer and staff, as determined in writing by the secretary. If the city fails to appropriate such amounts, the secretary shall direct the state treasurer to deduct the necessary funds from the city's distribution of unrestricted general aid and shall expend those funds directly for the benefit of the overseer and staff.

- (d) The city shall be deemed to have accepted section 37M of chapter 71 of the General Laws for the purpose of consolidating the business and financial operations and functions of the school department with those of the city under the authority of the director of the department of budget and finance. This acceptance may be revoked, but no revocation of acceptance shall be valid or effective in any year during which a loan issued under section 3 remains outstanding, without the written approval of the secretary. Upon consolidation of the business and financial operations and functions of the school department with those of the city, the fiscal overseer shall advise the new consolidated department of budget and finance.
- SECTION 6. Before setting a tax rate under section 23 of the chapter 59 of the General Laws for the fiscal year beginning July 1, 2010 or for any subsequent fiscal year in which a loan issued under section 3 remains outstanding, the city shall submit to the director a pro forma tax rate for the succeeding fiscal year, which shall contain all information required to set the tax rate under said section 23 of chapter 59 except for the assessed valuation of all real and personal property subject to taxation for the fiscal year. The pro forma tax rate recapitulation, together with a copy of the adopted budget and such supporting revenue and expenditure information as the director may prescribe, shall be submitted no later than 10 days after the adoption of the city budget, or July 1, whichever is earlier. The director shall ascertain whether the city budget for that fiscal year contains reasonable revenues from taxation and other sources to meet the appropriations and

other amounts required by law to be raised under said section 23 of chapter 59, and the director shall report his conclusion to the commissioner. For the fiscal year beginning July 1, 2009 or for any subsequent fiscal year in which a loan issued under section 3 remains outstanding, upon submission of the annual tax rate recapitulation by the city, the director shall also ascertain whether the city budget for that fiscal year contains reasonable revenues from taxation and other sources to meet the appropriations and other amounts required by law to be raised under said section 23 of said chapter 59 and the director shall report his conclusion to the commissioner. If the commissioner determines that the city budget as presented on the pro forma or annual tax rate recapitulation would not permit certification of the tax rate for the applicable fiscal year, the commissioner shall certify this determination in writing and provide notice of the determination with a copy of the certificate to the secretary. In this case, no tax rate for the year shall be approved until submission of an annual tax rate recapitulation based on the actions taken to achieve a balanced budget.

- (b) In any year in which a loan issued under section 3 remains outstanding, the commissioner shall not certify the annual tax rate of the city until an audit report and balance sheet for the preceding fiscal year has been received and accepted by the director. The audit report shall be prepared by a certified public accountant in accordance with generally accepted auditing standards and shall include accompanying financial statements.
- (c) In any year in which a loan issued under section 3 remains outstanding, the city shall submit to the director quarterly reports presenting a budget to actual comparison of revenues and expenditures. The written reports shall be submitted within 30 days after the conclusion of each fiscal quarter and shall be in the form and include the information and detail that the director may prescribe.

(e) The director may waive any reporting or filing requirements contained in this section.

SECTION 7. If the city cannot set a tax rate for the fiscal year beginning July 1, 2010 by January 31, 2011, the fiscal overseer shall report this, as well as the underlying reasons, to the secretary. At any time after January 31, 2011, if the overseer concludes that the city is unable to achieve a balanced budget and fiscal stability, the overseer shall report this in writing to the secretary, and the secretary may abolish the overseer and appoint a finance control board. The board shall have all of the powers and duties set forth in section 8. At any time after July 1, 2011 and while debt issued under this act is outstanding, if a finance control board has not been appointed and if the secretary, in his sole discretion, determines that the city has taken steps necessary to achieve long-term fiscal sustainability and no longer requires active state oversight, the secretary may abolish the overseer. If the director notifies the secretary in writing that the city is unable to achieve a balanced budget or set a tax rate at any time after the removal of the overseer and while the debt issued under this act is still outstanding, then the secretary may establish a finance control board in accordance with section 8.

SECTION 8. (a) If a finance control board is established in accordance with section 7, it shall consist of 5 members: 3 designees of the secretary, 1 of whom shall be a resident of the city, the mayor of the city, and the president of the city council of the city. The secretary may at any time and without cause remove any member whom he designated and appoint a successor. The board shall act by a majority vote of all its members. The board shall initiate and assure the implementation of appropriate measures to secure the financial stability of the city. The board shall continue in existence until the secretary abolishes it. The board shall be a state agency for the purpose of chapter 268A of the General Laws.

- (b) Action by the board under the authority of this act shall in all respects constitute action by
- the city for all purposes under the General Laws and under any special law.
- 166 (c) Until the board ceases to exist, no appropriation, borrowing authorization, transfer,
- including transfer from or replenishment of funds into the fiscal stability reserve fund under
- section 4 of chapter 41 of the acts of 1990, as amended by section 5 of chapter 377 of the acts
- of 1992, the capital reserve fund established under section 11, or other municipal spending
- authority shall take effect until approved by the board. The board shall approve all
- appropriations, borrowing authorizations, transfers, or any other municipal spending
- authorizations, in whole or part.
- 173 (d) In addition to the authority and powers conferred elsewhere in this act, and notwithstanding
- any city charter provision or local ordinance to the contrary, the board shall have the following
- powers:
- 176 (1) to amend formulate and execute the annual or supplemental budgets of the city and the school
- committee, including the establishment, increase or decrease of any appropriations and spending
- authority for all departments, boards, committees, agencies or other units of the city and the
- school committee, but, notwithstanding section 34 of chapter 71 of the General Laws, this clause
- shall fully apply to the school department and all school spending purposes;
- 181 (2) to implement and maintain uniform budget guidelines and procedures for all departments;
- 182 (3) to amend, formulate and execute capital budgets, including to amend any borrowing
- authorization, or finance or refinance any debt in accordance with law;
- 184 (4) to amortize operational deficits in an amount and for such term as the secretary approves on
- 185 an annual basis:

(5) to develop and maintain a uniform system for all financial planning and operations in all departments, offices, boards, commissions, committees, agencies or other units of the city's government, including the school department; (6) to review and approve or disapprove all proposed contracts for goods or services; (7) notwithstanding any general or special law to the contrary, to establish, increase, or decrease any fee, rate, or charge, for any service, license, permit or other municipal activity, otherwise within the authority of the city; (8) notwithstanding the charter or any city ordinance to the contrary, to appoint, remove, supervise and control all city employees and have control over all personnel matters; the board shall hold all existing powers to hire and fire and set the terms and conditions of employment held by other employees or officers of the city, whether or not elected; the board shall have the authority to exercise all powers otherwise available to a municipality regarding contractual obligations during a fiscal emergency; and no city employee or officer shall hire, fire, transfer or alter the compensation or benefits of any employee except with the written approval of the board. The board may delegate or otherwise assign these powers with the approval of the secretary; (9) to alter the compensation of elected officials of the city to reflect the fiscal emergency and changes in the responsibilities of the officials as provided by this act; (10) to employ, retain, and supervise such managerial, professional and clerical staff as are necessary to carry out its responsibilities, with the approval of the secretary. The board, with the approval of the secretary, shall have authority to set the compensation, terms, and conditions of employment of its own staff. The city shall annually appropriate amounts sufficient for the compensation of personnel hired under this subsection as determined and fixed by the board. If the city fails to appropriate such amounts, the secretary shall direct the state treasurer to deduct

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210 funds directly for the benefit of the board. Staff hired under this subsection shall be deemed 211 employees of the commonwealth, except such employees as the board formally designates 212 independent contractors, but chapters 31 and 150E of the General Laws shall not apply to such 213 employees. (11) to reorganize, consolidate or abolish departments, commissions, boards, offices or functions 214 215 of the city, in whole or in part, and to establish such new departments, commissions, boards, 216 offices or functions as it deems necessary, and to transfer the duties, powers, functions and 217 appropriations of 1 department, commission, board or other unit to another; 218 (12) to appoint in consultation with the secretary persons to fill vacancies on any board, committee, department, or office acting in an advisory capacity to the board; 219 220 (13) to sell, lease, or otherwise transfer real property and other assets of the city with the 221 approval of the secretary; 222 (14) to purchase, lease, or otherwise acquire property or other assets on behalf of the city with 223 the approval of the secretary; 224 (15) to adopt rules and regulations governing the operation and administration of the city; 225 (16) to seek voter approval of general override, debt exclusion or capital expenditure exclusion 226 ballot questions as provided in section 21C of chapter 59 of the General Laws; (17) to approve the allocation of the tax levy through the selection of a residential factor pursuant 227 228 to section 56 of chapter 40 of the General Laws, but no choice of a residential factor under said 229 section 56 shall be valid until it has been approved by the board; (18) to alter or rescind any action or decision of any municipal officer, employee, board or 230 231 commission within 14 days after receipt of notice of such action or decision;

the necessary funds from the city's distribution of unrestricted general aid and shall expend those

232 (19) to suspend in consultation with the secretary any rules and regulations of the city and to 233 adopt rules and regulations to carry out this act; and 234 (20) to exercise all powers under the General Laws and this or any other special act, any 235 charter provision or ordinance that any elected official of the city may exercise, acting separately or jointly. With respect to any such exercise of powers by the board, the elected 236 237 officials shall not rescind or take any action contrary to such action by the board so long as the board continues to exist. 238 SECTION 9. (a) Notwithstanding any general or special law or local ordinance to the contrary, 239 240 this section shall apply upon abolition of a finance control board established under this act. 241 There shall be in the city a department of administration and finance which shall be responsible 242 for the overall budgetary and financial administration of the city. The department shall be under the charge and control of a chief administrative and financial officer, in this section called the 243 244 CAFO. The CAFO shall report to and be under the charge and direction of the mayor. Nothing 245 in this section shall abrogate the powers and duties of the school committee under any general or special law, except as specifically provided in this section. 246 Whenever the term "department of budget and finance" appears in any general or special law or 247 any ordinance, regulation, contract or other document with reference to the city, it shall mean the 248 department of administration and finance of the city. Whenever the term "chief financial 249 officer" or "director of budget and finance" appears in any general or special law or any 250 ordinance, regulation, contract or other document with reference to the city, it shall mean the 251 CAFO of the city. 252

(b)(1) The mayor shall appoint the CAFO for a term of not more than 3 years, as provided in this subsection. The CAFO shall be appointed solely on the basis of administrative and executive qualifications and shall be a person especially fitted by education, training and experience to perform the duties of the office. The CAFO need not be a resident of the city.

- (2) When the office of CAFO is vacant or it is known that it will become vacant, the mayor shall initiate the selection process by giving notice of the intention to establish a screening committee to review applicants for the position and shall send a copy of the notice to each agency or officer responsible for appointing persons to serve on the screening committee. The mayor shall appoint the screening committee not earlier than 21 days after sending that notice. No screening committee shall be required if the mayor reappoints an incumbent CAFO.
  - (3) The screening committee shall consist of 7 members. The school committee, city council and secretary shall each appoint 1 person to serve on the screening committee. The mayor shall appoint 4 other members to the screening committee, 2 of whom shall be experts in municipal management.
  - (4) The screening committee shall recommend to the mayor the names of not less than 2 or more than 5 candidates whom it believes to be best suited to perform the duties of the CAFO. If the screening committee determines that there are not at least 2 candidates qualified to perform the duties of the CAFO, the screening committee shall report to the mayor that it is unable to complete its assigned task. In that event, the mayor shall direct the screening committee to reopen the search.

- 273 (5) The mayor shall appoint as the CAFO 1 of the candidates recommended by the screening 274 committee or, if the mayor finds that no such candidate to be qualified for the office, the 275 mayor shall direct the screening committee to reopen the search.
- (c) While the process of appointing a CAFO under subsection (b) is proceeding, the mayormay appoint an acting CAFO.
- 278 (d) If a loan issued under section 3 remains outstanding, the appointment, including an acting
  279 appointment, or removal of the CAFO shall not take effect until it has been approved in
  280 writing by the secretary.
- 281 (e) The powers and duties of the CAFO shall include the following:
- 282 (1) coordinating, administering, and supervising of all financial services and activities;
- 283 (2) assisting in all matters related to municipal financial affairs;
- 284 (3) implementing and maintaining uniform systems, controls, and procedures for all financial
  285 activities in all departments, including the school department, boards, commissions, agencies or
  286 other units of city government the operations of which have a financial impact upon the general
  287 fund and enterprise funds of the city, and including, but not limited to, maintaining of all
  288 financial and accounting data and records;
- (4) implementing and maintaining uniform financial data processing capabilities for all
   departments;
- 291 (5) supervision of all financial data processing activities;
- 292 (6) implementing and maintaining uniform budget guidelines and procedures;

- 293 (7) assisting in the development and preparation of all department budgets and spending plans;
- 294 (8) reviewing all proposed contracts and obligations with a term in excess of 1 year;
- 295 (9) monitoring the expenditure of all funds, including periodic reporting by and to appropriate
- agencies of the status of accounts;

- 297 (10) reviewing the spending plan for each department; and
- 298 (11) providing for the allotment of funds on a periodic basis as provided for in this act.
- In all cases where the duty is not expressly charged to any other department or office, it shall
- be the duty of the CAFO to promote, secure, and preserve the financial interests of the city.
  - (f) All department budgets and requests for budget transfers shall be submitted to the CAFO
- for review and recommendation before submission to the city council or school committee, as
- appropriate. For each proposed appropriation order, lease or contract arrangement for a term
- including more than 1 fiscal year, collective bargaining agreement and with respect to any
- 305 proposed city council vote necessary to effectuate a financial transfer, ordinance revision or
- 306 special legislation which may require the expenditure of funds or otherwise financially
- obligate the city for a period in excess of 1 year, or with respect to a vote to authorize a
- borrowing pursuant to a provision of law other than section 4, 6 or 6A of chapter 44 of the
- General Laws, the CAFO shall, if it be the case, submit in writing to the city council a
- certification that it is the CAFO's professional opinion, after an evaluation of all pertinent
- 311 financial information reasonably available, that the city's financial resources and revenues are
- and will continue to be adequate to support such proposed expenditures or obligations without
- a detrimental impact on the continuous provision of the existing level of municipal

services. If the CAFO fails to provide this certification within 7 days after a request for such certification from the city council or school committee, the appropriation order, financial transfer, ordinance revision, special legislation or borrowing authorization may nonetheless be approved, but the absence of the certification of the CAFO shall be expressly noted in that order or vote.

- (g) All departments, officers, boards, commissions, agencies and other units of the city, including the school department, shall submit budget requests to the mayor upon the schedule and in the form established by the CAFO.
- 322 (h) Annually, not later than March 30, the CAFO shall submit a 4-year financial plan and a 5-323 year capital plan to the city council that includes all capital needs of the city.
  - (i) The board of assessors, treasurer-collector, budget director, comptroller, director of information technology, purchasing agent, director of human resources, labor relations director, and employees performing similar duties but with different titles shall report to and be under the direction of the CAFO. The CAFO shall appoint all such officers and employees with the approval of the mayor. The mayor may also place other positions and departments under the direction of the CAFO.
  - (j) The CAFO shall not assume the duties or responsibilities of the treasurer-collector and shall not hold an elective office or engage in any other business or occupation.
  - (k) The city shall annually appropriate amounts sufficient for the proper administration of the department, as determined in writing by the secretary. If the city fails to appropriate such amounts, the secretary shall direct the state treasurer to deduct the necessary funds from the

city's distribution of the city's unrestricted general aid and shall expend those funds directly for the benefit of the department.

(1) The CAFO shall comply with all requests of the school department to provide any information relating to the operation of the school department held within the authority or control of the CAFO as the result of the consolidation of school and city business and financial functions under section 5. If the CAFO, or any employee thereof refuses to provide such information or engages in unreasonable delay, the school department shall notify the secretary. The secretary shall, within a reasonable time, make a determination that any such information shall be provided to the school department which shall be binding upon the CAFO and the school department. The secretary's determination shall not be an adjudicatory proceeding reviewable under chapter 30A of the General Laws. Nothing in this subsection shall abrogate any of the other powers or duties of the school committee under chapter 71 of the General Laws.

(m) In any year in which a loan issued under section 3 remains outstanding, the CAFO shall submit to the director all reports required under section 6.

SECTION 10. The overseer shall include in the 3-year operating and capital financial plan to achieve fiscal stability required under section 5 an assessment and analysis of the financial impact of the city's (a) acceptance of section 18 of chapter 32B of the General Laws and (b) termination of providing group health insurance coverage by self-insurance under section 3A of said chapter 32B and acceptance of section 19 of said chapter 32B for purposes of obtaining group health insurance coverage from the group insurance commission established by section 3 of chapter 32A of the General Laws or participation in a joint purchasing group or

agreement under section 12 of said chapter 32B for purposes of obtaining such coverage. If the overseer determines that any such acceptance or action would assist the city achieve fiscal stability, the overseer shall recommend such acceptance and action and the city shall take all actions needed by law to implement any such recommendation.

SECTION 11. In addition to the fiscal stability reserve fund under section 4 of chapter 41 of the acts of 1990, as amended by section 5 of chapter 377 of the acts of 1992, there shall be in the city a capital reserve fund into which the city shall appropriate in each fiscal year beginning in fiscal year 2012 at least 1.5 per cent of the amount of property taxes committed for the preceding fiscal year. The fund may be appropriated only for purposes for which the city could borrow for 10 years or longer under chapter 44 of the General Laws.

SECTION 12. (a) No official of the city, except in the case of an emergency involving the health and safety of the people or their property declared by the council under section 31 of chapter 44 of the General Laws, shall knowingly expend or cause to be expended in any fiscal year any sum in excess of that official's departmental or other governmental unit's appropriation duly made in accordance with the law, nor commit the city, nor cause it to be committed, to any obligation for the future payment of money in excess of that appropriation, with the exception of court judgments.

(b) An official who intentionally violates this section shall be personally liable to the city for any amounts expended in excess of an appropriation to the extent that the city does not recover such amounts from the person or persons to whom such amounts were paid. The superior court or a single justice of the supreme judicial court shall have jurisdiction to adjudicate claims brought by the city, or on the city's behalf by a finance control board established under this act, under this

A violation of this section shall be sufficient cause for removal.

(c) For the purposes of this section, the word "official" shall mean a city department head,
permanent, temporary or acting, including the superintendent of schools, and all members of
municipal boards, committees, including the school committee, and commissions which
recommend, authorize or approve the expenditure of funds, and the word "emergency" shall

act and to order relief that the court finds appropriate to prevent further violations of this section.

mean a major disaster, including, but not limited to, flood, drought, fire, hurricane,

earthquake, storm or other catastrophe, whether natural or otherwise, which poses an

unexpected and immediate threat to the health and safety of persons or property.

SECTION 13. This act shall be effective notwithstanding any charter provision or ordinance to

the contrary.

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390 SECTION 14. This act shall take effect upon its passage.